

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

JAMES W. EDMONDS,

Plaintiff,

v.

**MACON COUNTY BOARD OF
EDUCATION,**

Defendant.

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CIVIL ACTION NO. 5:11-CV-55 (MTT)

ORDER

This matter is before the Court on the Defendant's Motion to Dismiss (Doc. 2).

For the following reasons, the Motion is GRANTED and the case is DISMISSED.

This case was removed to this Court on February 16, 2011. In the state court, the Plaintiff had filed a Petition for Administrative Injunction and a Motion to Amend Original Complaint. The Plaintiff takes exception to certain acts of the Macon County Board of Education (the "school board") and seeks an injunction from this Court against the school board. However, the school board is not a party that is subject to suit. Fed. R. Civ. Pro. 17(b)(3) states that the capacity to be sued for a party that is not an individual or a corporation, such as the school board, is determined according to the law of the state where that court is located—in this case, obviously, that is Georgia. Under Georgia law, "a county board of education . . . is not a body corporate and does not have the capacity to sue or be sued." *Cook v. Colquitt County Bd. of Educ.*, 261 Ga. 841 Ga. 841, 841, 412 S.E.2d 828, 828 (1992).

Therefore, the Plaintiff has failed to state a claim and his case must be dismissed. Thus, the Motion to Dismiss (Doc. 2) is **GRANTED**.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT

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